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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,814

04/09/2004

Hiroyuki Ishii

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22850

7590

04/16/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
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EXAMINER

LY, ANH VU H

ART UNIT

PAPER NUMBER

2616

NOTIFICATION DATE

DELIVERY MODE

04/16/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/820,814	ISHII ET AL.	
	Examiner	Art Unit	
	ANH-VU H. LY	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8 and 9 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>February 15, 2008</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This communication is in response to Applicant's amendment filed December 21, 2007. Claims 1-9 are pending.

Drawings

2. Figures 1-3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-5 and 9 are rejected under 35 U.S.C. 112, first paragraph, as being single means claims. A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known to the inventor. Further, a single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an

undue breadth rejection under 35U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197(Fed. Cir. 1983).

With respect to claims 1-5 and 9, a system and/or a method comprising a transmission power controller, which is a means, for controlling the transmission power of a shared control channel does not appear in combination with another recited element of means. Therefore, it is a single means claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al (US 2003/0112773 A1). Hereinafter, referred to as Lee.

With respect to claims 1 and 9, Lee discloses a radio communications control system for controlling transmission power of a shared control channel for transmitting control signals to a plurality of mobile stations (Fig. 6), the system comprising:

a transmission power controller configured to control the transmission power of the shared control channel, in accordance with transmission power of a dedicated channel accompanying the shared control channel (page 1, 21st paragraph, determining transmission power of a downlink dedicated physical channel, DL DPCH, based on the received TPC command and determining transmission power of a shared control channel for HS-DSCH (HS-

SCCH) transmitted to each mobile station by using a power offset value related to transmission power of the DL DPCH), and the communication quality of the shared control channel (page 3, 55th paragraph, in order to prevent an increase in an error rate of HS-SCCH that can possibly occur in the soft handover of DL DPCH, the transmission power of HS-SCCH should be increased. Herein, transmission power of HS-SCCH is controlled accordance to transmission power of DL DPCH and error rate of HS-SCCH or quality of HS-SCCH).

With respect to claim 2, Lee discloses that wherein the transmission power controller is arranged to set the transmission power of the shared control channel, by changing the transmission power of the dedicated channel based on a power offset (page 1, 21st paragraph, determining transmission power of a shared control channel for HS-DSCH (HS-SCCH) transmitted to each mobile station by using a power offset value related to transmission power of the DL DPCH); and the transmission power controller is arranged to control the power offset in accordance with the communication quality of the shared control channel (page 3, 55th paragraph, in order to prevent an increase in an error rate of HS-SCCH that can possibly occur in the soft handover of DL DPCH, the transmission power of HS-SCCH should be increased).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of the admitted prior art (APA) as disclosed in the specification in pages 1-5 and Figs. 1-3.

With respect to claims 6 and 8, Lee discloses a radio communications control system for controlling transmission power of a shared control channel for transmitting control signals to a plurality of mobile stations (Fig. 6). Lee does not disclose a maximum transmission power controller configured to control a maximum transmission power of the shared control channel during a predetermined period and wherein the transmission power controller is arranged to control the transmission power of the shared control channel so as not to exceed the maximum transmission power nor control the maximum transmission power so as not to exceed an upper limit value per each of the shared control channels. APA discloses a system having maximum total transmission power of HS-SCCH set (Fig. 1, right side) and having transmission power of each of the shared control channel not to exceed the maximum transmission power set (Fig. 1. Herein, the transmission power of HS-SCCH is set not to exceed the maximum total transmission power of HS-SCCH). It would have been obvious to one having ordinary skilled in the art at the time the invention was made to control the transmission power of HS-SCCH not to exceed the set maximum transmission power of HS-SCCH in Lee's system, as suggested by APA, to prevent interference among cells.

Allowable Subject Matter

6. Claims 3-5 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art does not suggest or teach that the transmission power controller is arranged to control the power offset so that the block error rate of the shared control channel can be a target value, as specified in dependent claim 3.

The prior art does not suggest or teach that the transmission power controller is arranged to use feedback information used for retransmission control in the shared packet channel, as the communication quality of the shared control channel and arranged to decrease the power offset when receiving the feedback information, and to increase the power offset when not receiving the feedback information, as specified in dependent claim 4.

The prior art does not suggest or teach that the transmission power controller is arranged to control the power offset in accordance with a service type of the shared packet channel, as specified in dependent claim 5.

The prior art does not suggest or teach that the maximum transmission power controller is arranged to control the maximum transmission power in accordance with a statistical value of the transmission power of the shared control channels, as specified in dependent claim 7.

Response to Arguments

7. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Terry (US 2003/0228865 A1) discloses PtM using shared channels in wireless communication systems.

Hayashi et al (US Patent No. 6,873,626 B2) discloses control system, control method, and radio network controller preferably used for the system and method.

Hwang et al (US 2002/0077141 A1) discloses apparatus and method for power control of downlink shared channel in mobile communication system.

Das et al (US 2003/0189918 A1) discloses shared signaling for multiple user equipment.

Hayashi et al (US 2004/0242255 A1) discloses transmission power control method and radio control apparatus in mobile packet communication system.

Lee et al (US 2003/0128673 A1) discloses method for controlling power of HS-SCCH in mobile communication system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH-VU H. LY whose telephone number is (571)272-3175.

The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Avl

/Anh-Vu H Ly/

Primary Examiner, Art Unit 2616